

ADAMS BROADWELL JOSEPH & CARDOZO

DANIEL L. CARDOZO
THOMAS A. ENSLOW
TANYA A. GULESSERIAN
MARC D. JOSEPH
LOULENA A. MILES
GLORIA D. SMITH

FELLOW
RACHAEL E. KOSS

OF COUNSEL
THOMAS R. ADAMS
ANN BROADWELL

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4215

TEL: (916) 444-6201
FAX: (916) 444-6209
tenslow@adamsbroadwell.com

SO. SAN FRANCISCO OFFICE

601 GATEWAY BLVD., SUITE 1000
SO. SAN FRANCISCO, CA 94080

TEL: (650) 589-1660
FAX: (650) 589-5062

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CALIFORNIA BUILDING
STANDARDS COMMISSION

May 8, 2008

VIA OVERNIGHT DELIVERY

Thomas L. Morrison
Deputy Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

**Re: HCD Proposed Amendments of California Plumbing Code
Sections 211.0, 402.3.1, 402.3.2, 402.3.3, 504.2.1, 1003.1 and 1005.0
Regarding Non-Water Supplied Urinals**

Dear Mr. Morrison:

The following comments are respectfully submitted on behalf of the California State Pipe Trades Council regarding the proposed California Plumbing Code ("CPC") regulations that would add Sections 402.3.1, 402.3.2 and 402.3.3 and amend Sections 211.0, 504.2.1, 1003.1 and 1005.0 to approve the use of non-water supplied urinals in occupations under the jurisdiction of the Department of Housing and Community Development ("HCD") (collectively, "the waterless urinal regulations").

As currently proposed, the waterless urinal regulations are inconsistent with Health and Safety Code section 17921.4 as enacted by Assembly Bill 715 ("AB 715").

In AB 715, the Legislature sets forth six conditions that must be met before a waterless urinal may be approved for installation or sold in this state. (Health & Saf. Code § 17921.4.) These conditions are as follows:

- (1) Meet performance, testing, and labeling requirements established by the American Society of Mechanical Engineers standard A112.19.19-2006.

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- (2) Be listed by an American National Standards Institute accredited third-party certification agency to the American Society of Mechanical Engineers standard A112.19.19-2006.
- (3) Provide a trap seal that complies with the California Plumbing Code.
- (4) Permit the uninhibited flow of waste through the urinal to the sanitary drainage system.
- (5) Be cleaned and maintained in accordance with the manufacturer's instructions after installation.
- (6) Be installed with a water supply rough-in to the urinal location that would allow a subsequent replacement of the non-water supplied urinal with a water-supplied urinal if desired by the owner or if required by the enforcement agency.

The legislative history of AB 715 shows that these six conditions were intended to address concerns over the safety and performance of waterless urinals due to their reliance upon regular maintenance to ensure a sanitary condition and concerns over the introduction to the marketplace of mechanical traps for waterless urinals.

AB 715 requires waterless urinals to be regularly cleaned and maintained in accordance with the manufacturer's instructions. Where an owner is unable or unwilling to regularly maintain these fixtures, the owner is provided the option to replace them with self-cleaning water-supplied urinals due to the rough-in requirement.

AB 715 also requires all waterless urinals to comply with and be listed to ASME A112.19.19-2006. ASME A112.19.19-2006 requires waterless urinals to have a liquid seal trap. Liquid seal traps are an important requirement because they maintain a more effective and less failure prone seal than mechanical traps. Mechanical traps have moving parts that may wear out or jam in the open position. When mechanical traps fail or are jammed in the open position, sewer gas is provided a direct pathway into the living area and a health hazard is created. Liquid seal traps have no moving parts and thus have long been the required traps for plumbing fixtures.

The proposed waterless urinal regulations are inconsistent with AB 715 in several respects. In addition, several of the proposed amendments are vague, overbroad or otherwise require revision to clarify the agency's intent.

I. THE EXCEPTION TO SECTION 211.0 SHOULD BE AMENDED FOR CLARITY

HCD proposes to add an exception to the definition of "insanitary" in CPC section 211.0. In addition to its general definition of the term "insanitary," CPC section 211.0 lists a number of specific conditions that shall be considered "insanitary." Section 211.0, subsection 3, defines as insanitary: "Any plumbing fixture or other waste-discharge receptor or device that is not supplied with water sufficient to flush and maintain the fixture or receptor in a clean condition." HCD proposes to exclude "*Non-water supplied urinals*" from this definition.

We recommend revising this proposed exclusion for clarity and to remain consistent with the underlying intent of Section 211.0, subsection 3. We suggest amending the proposed exception from the currently proposed "*Non-water supplied urinals*" to "*Non-water supplied urinals that are cleaned and maintained in accordance with manufacturer's instructions.*" This change would track the requirements of AB 715, which states that waterless urinals may be installed only if they are "cleaned and maintained in accordance with the manufacturer's instructions after installation." (Health & Saf. Code § 17921.4.) Moreover, waterless urinals that are not cleaned and maintained in accordance with manufacturer's instructions are, in fact, insanitary since they are not flushed with water after each use like conventional urinals. This change would be consistent with the underlying intent of Section 211.0, subsection 3 to ensure that urinals are maintained in a clean condition.

II. SECTION 402.3.3 VARIES FROM AND CONFLICTS WITH AB 715

CPC Section 402.3.3 should be amended to accurately reflect the six conditions of approval required by AB 715. HCD proposes to add CPC Section 402.3.3 to allow the installation of waterless urinals in occupancies under its jurisdiction upon compliance with five conditions. Several of these five conditions, however, vary from and conflict with the statutory conditions of approval required

by AB 715. In addition, Section 402.3 fails to include two of the six conditions of approval codified by statute.

A. Section 402.3.3 Unlawfully Permits the Installation of Waterless Urinals that Do Not Comply with ASME A112.19.19-2006

Section 402.3.3, subsection (1) requires waterless urinals to “Meet performance, testing, and labeling requirements established by ASME A112.19.19-2006 *for vitreous china non-water supplied urinals.*” (Emphasis provided.) This requirement varies from AB 715 through its addition of the clause “*for vitreous china non-water supplied urinals.*”

In addition, Section 402.3.3, subsection (4) requires waterless urinals to “*Conform to reference standards in Table 14-1 for non-vitreous ceramic or plastic urinal fixtures.*” This requirement is not a condition of AB 715 and potentially conflicts with AB 715’s requirement that all waterless urinals be certified to conform to ASME A112.19.19-2006.

When read in conjunction, the additional clause added to Section 402.3.3, subsection (1) and the additional condition added as Section 402.3.3, subsection (4) erroneously suggests that non-vitreous ceramic or plastic urinal fixtures may be installed even if they do not comply with the performance, testing, and labeling requirements of ASME A112.19.19-2006. AB 715, however, expressly requires *all* waterless urinals sold or installed in the state to meet the performance, testing, and labeling requirements of ASME A112.19.19-2006. No exception is provided for non-vitreous ceramic or plastic urinal fixtures.

As a result, these proposed provisions are inconsistent with the statutory requirements of AB 715. While HCD may adopt *additional* regulatory requirements for the approval of non-water-supply urinals, it may not adopt requirements that *conflict* with the statutory requirements of AB 715.

Section 402.3.3, subsection (4) should be deleted in its entirety or amended to clarify that even non-vitreous ceramic or plastic waterless urinal fixtures must comply with and be certified to ASME A112.19.19-2006. If non-vitreous ceramic or plastic waterless urinal fixtures are unable to meet the requirements of and be certified to ASME A112.19.19-2006, they are barred by Health and Safety Code section 17021.4.

B. Section 402.3.3, Subsection (2), Is Vague and Requires Clarification

Section 402.3.3, subsection (2), must be amended because it varies from AB 715 in a manner that creates ambiguity and confusion. AB 715 requires waterless urinals to be “listed by an American National Standards Institute accredited third-party certification agency to the American Society of Mechanical Engineers standard A112.19.19-2006.” Section 402.3.3, subsection (2), on the other hand, requires waterless urinals to be “listed by an ANSI accredited third-party certification agency *conforming* to ASME A112.19.19-2006.” (Emphasis provided.) By adding the word “conforming,” this version appears to suggest that the third-party certification agency has to conform to ASME A112.19.19-2006, not the waterless urinal. Such a requirement makes no sense and is contrary to the intent of AB 715. HCD should clarify this requirement by deleting the word “conforming” or changing it to “as conforming.”

C. Section 402.3.3 Fails to Include Two of the Six Requirements of AB 715

Section 402.3.3 is further deficient because it fails to include two of the six requirements of AB 715: (1) the requirement that waterless urinals “[p]rovide a trap seal that complies with the California Plumbing Code”; and (2) the requirement that waterless urinals “[p]ermit the uninhibited flow of waste through the urinal to the sanitary drainage system.”

Section 402.3.3 should be amended to include these additional requirements in order to avoid any ambiguity as to the applicability of these statutory requirements and to provide appropriate guidance to the end-user of this document.

III. THE PROPOSED EXCEPTION TO SECTION 405.2 IS OVERBROAD AND LACKS NEEDED GUIDANCE

HCD’s proposed exception to CPC Section 405.2 is overbroad and fails to provide needed guidance to the end-user of the code. Section 405.2 currently states:

“Floor-type and wall-hung type trough urinals shall be prohibited.
Urinals that have an invisible seal or that have an unventilated space

or wall that is not thoroughly washed at each discharge shall be prohibited.”

HCD proposes to exclude waterless urinals from compliance with this entire section. This proposed exclusion appears overbroad. We suspect that HCD’s intention was only to exclude waterless urinals from compliance with the requirement that urinal walls be “thoroughly washed at each discharge.”

No justification exists for excluding waterless urinals from the rest of the prohibitions in this section, including the prohibitions on floor-type and wall-hung type trough urinals and urinals that have an invisible seal or that have an unventilated space. This exception should be amended to clarify that waterless urinals are only excluded from the requirement that urinal walls be “thoroughly washed at each discharge.”

IV. THE PROPOSED EXCEPTIONS TO SECTIONS 1003.1 AND 1005.0 SHOULD BE AMENDED FOR CLARITY

HCD proposes to add exceptions that would exclude “Non-water supplied urinals conforming to ASME A112.19.19-2006 or reference standards in Table 14-1 for non-vitreous ceramic or plastic urinal fixtures” from the fixture trap requirements of Sections 1003.1 and 1005.0.

We recommend that these exceptions be amended to read: “Non-water supplied urinals conforming to the requirements of Section 402.3.3.” Referencing Section 402.3.3 provides a more accurate and clear statement as to which waterless urinals are permitted by the code. Moreover, such an amendment would eliminate the problems with referencing “standards in Table 14-1 for non-vitreous ceramic or plastic urinal fixtures” discussed in Section II.A, *supra*.

V. THE PROPOSED EXCEPTION TO SECTION 1005.0 SHOULD BE AMENDED TO PROVIDE NEEDED GUIDANCE

HCD proposes to exclude “[n]on-water supplied urinals conforming to ASME A112.19.19-2006 or reference standards in Table 14-1 for non-vitreous ceramic or plastic urinal fixtures” from the trap seal requirements of Section 1005.0. This

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exclusion is inadequate because it leaves the end-user without any guidance regarding trap seals for waterless urinals.

HCD should adopt the definition of "trap" for waterless urinals contained in ASME A112.19.19-2006. ASME A112.19.19-2006 defines a trap as "a fitting, device, or integral fixture portion so designed and constructed as to provide a liquid seal that will prevent the back-passage of sewer gas without materially affecting the flow of sewage or wastewater through it." By adding such a definition, HCD would maintain consistency with the requirements of AB 715 and provide much needed guidance to the end-user.

HCD's proposals regarding CPC Sections 211.0, 402.3.1, 402.3.2, 402.3.3, 504.2.1, 1003.1 and 1005.0 are currently inconsistent with the statutory requirements of AB 715 and contain provisions that are vague, overbroad or lack sufficient guidance. These proposed regulations must be amended to correct these deficiencies prior to adoption.

Thank you for your consideration of our comments. Please contact us if you have any questions.

Sincerely,



Thomas A. Enslow

TAE:cnh

cc: Ted A. Reed
Executive Director
California State Pipe Trades Council